

Notice of Allowability

Application No.

10/644,488

Examiner

Katherine W. Mitchell

Applicant(s)

GREENWOOD ET AL.

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/29/2006.
2. ☒ The allowed claim(s) is/are 1,4,6,8,10,12,14,21 and 22.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 20060802.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Katherine Mitchell
Primary Examiner

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. Authorization for this examiner's amendment was given in a telephone interview with Robert Morris on 8/2/2006.

3. The application has been amended as follows:

In the Claims:

- Claims 2,3,5,7,9,11,13,15-20 are cancelled.
- The following **NEW CLAIMS** have been added:

23. A method according to claim 22, wherein the colloidal silica particles are present in a silica sol having an S-value from about 30 to about 90.

24. A method according to claim 22, wherein the composition further comprises a hydraulic binder.

25. A method according to claim 22, wherein the weight ratio of silica to silicate is from about 3:1 to about 70:1.

26. A method according to claim 22, wherein the weight ratio of silica to silicate is from about 6:1 to about 20:1.

27. A method according to claim 1, wherein the silica particles have a relative standard of deviation of the particle size distribution lower than about 15% by numbers.

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28. A method according to claim 22, wherein the gelling agent is an alkali metal salt.

29. A method according to claim 22, wherein the gelling agent is added resulting in an amount of from about 1 to about 30% of the total dry weight of the silicate and silica particles.

REASONS FOR ALLOWANCE

4. The following is an examiner's statement of reasons for allowance: The closest prior art is Shimada, JP 2001-3047 -- as applied in the previous action. However, Shimada is explicit that the colloidal silica particles are 1-50 wt% of the total SiO₂, which is 3-13 wt% of the total solution/grout, thus the total maximum colloidal silica particles of Shimada is 0.50 x 0.13, or 6.5 wt %, and examiner can further find no teaching that the colloidal silica particles are dispersed in a solvent at this 10-70 wt %. Thus the method does not teach the grouting composition as claimed by the applicant's method.

This requirement is in both independent claims 1 and 22.

5. Double patenting issues were considered with respect to applications 10/272165, 10,397769, and 10/311744, but examiner does not consider the pending claims obvious or anticipated by the claims of these applications.

6. DE 10001831 is in German, and the provided abstract fails to teach that the composition is used to seal a leaking part or cavity, or the grout comprising colloidal

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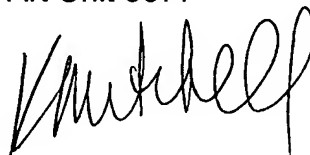
particles dispersed in a solvent in a concentration of about 10-70 wt percent counted as dry weight silica.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katherine W. Mitchell whose telephone number is 571-272-7069. The examiner can normally be reached on Mon - Thurs 10 AM - 8 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Katherine W Mitchell
Primary Examiner
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Kwm
8/2/2006